

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 99-0224P
Financial Institutions Tax
Calendar Years Ended 12/31/92, 12/31/93, and 12/31/94**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated April 14, 1999 requested a waiver of penalties for calendar years 1992, 1993, and 1994.

Taxpayer states that based upon its character as a good corporate citizen in the State of Indiana with no intentional disregard to its duties to pay the tax due, the penalty should be waived.

Upon audit it was discovered that the taxpayer failed to file a combined FIT return for the unitary group. The parent is a bank holding company that must include all its subsidiaries in the unitary group. The proposed assessments are the result of the Indiana Department of Revenue determining that it is a member of a unitary group of financial corporations, therefore the auditor has changed its filing method from separate company to unitary.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting and remitting Financial Institution Tax on a unitary basis.

Taxpayer states it exhibited no intentional disregard in the paying the tax due and requests a waiver of the penalties assessed.

45 IAC 17-3-5 requires the filing of a combined return covering all operations of a unitary business and includes all taxpayer members of the unitary group.

Taxpayer is a component of a large and sophisticated financial institution and the unitary filing status for these entities is basic to the Financial Institutions Tax. 45 IAC 17-3-5 was filed on January 22, 1991, and its explanation regarding taxability is clear. The audit covered 1992, 1993, and 1994. Taxpayer is sophisticated and should have been aware of the changes in tax law.

The Department finds that the taxpayer was negligent in not making itself aware of the Indiana tax laws, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer's protest is denied.